

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

STEPHANIE ELLEN CARLISLE and
RALEY POWELL DEARMAN, Individually
And on Behalf of All Wrongful Death Beneficiaries
of CHRISTOPHER POWELL, Deceased

PLAINTIFFS

VS.

CIVIL ACTION NO.: 4:11cv21 HTW-LRA

LAUDERDALE COUNTY, MISSISSIPPI, et al.

DEFENDANTS

DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION TO COMPEL DISCOVERY

COMES NOW, Defendant, Lauderdale County, Mississippi, and files this Response to Plaintiff's Motion to Compel Discovery, to wit:

1. In response to paragraph 1 of the motion, it is admitted that Lauderdale County has filed a Motion for Summary Judgment and that the incident alleged is an isolated incident insufficient to show a custom of repeated violations that would support the Plaintiffs maintaining their claim under §1983 for a policy.

2. In response to paragraph 2, it is true that other inmates had been placed on suicide watch, yet the Plaintiffs seek all information, regardless of whether the inmates were successful or not. The Plaintiffs have been provided information regarding the single other incident, within a ten year period, related to a detainee who was successful in committing suicide. To seek other information, where there was no suicide, would actually support defense position, yet should not be disclosed insofar as it involves mental health issues of inmates involved.

3. In response to paragraph 3, the County admits that it responded to discovery and filed objections, yet the County also did provide responses in part. It is admitted that the most prevalent objection involved privacy concerns pertaining to the release of inmates' personal

information, particularly as it relates to healthcare and mental healthcare issues.

4. The Defendants contend that the information sought, where there was an actual suicide in custody was identified and provided to the Plaintiffs. Non-suicides are not relevant, certainly not so relevant as to outweigh the important privacy concerns of the individuals involved.

5. As to paragraph 5 of the motion, the Plaintiffs suggest that they would be fine with a Protective Order or redaction, however, this has been suggested previously by these Defendants without response, and therefore, this Motion to Compel seeks to do what these Defendants have already suggested could be accommodated. The fact that the Plaintiffs have not availed themselves of this accommodation, should not be ignored in a Motion to Compel. Attached is a copy of the Defendant's December 21, 2011 response via email indicating that redaction should be considered.

6. As to paragraph 6, the Defendant has provided all relevant video within their possession. The Plaintiffs now seek a particular surveillance video from the booking area on May 3, 2010. After diligent review by county technicians of the available video, it appears that the DVR was not functioning on May 3, 2010 with respect to booking area entrance at door 7 and the east/west cameras. Therefore, there is simply no video from May 3, 2010 of that area. All other video was provided which was available. It is impossible to produce a video that does not exist.

7. It is admitted that a good faith letter and attempt to resolve this dispute was sent. Defendants would simply indicate that they attempted to accommodate the dispute before the motion was filed. See Exhibit "A". As to the May 3 video, effort has been made to isolate and

identify this requested video, but through the efforts of county technicians, it has been determined that the recording does not exist.

8. In support of this opposition, the Defendant submits the attached Exhibit "A", email to counsel offering accommodation.

9. This motion is contested.

WHEREFORE, PREMISES CONSIDERED, the Defendant, Lauderdale County, requests that the Motion to Compel Discovery be denied.

RESPECTFULLY SUBMITTED, this the 17th day of January, 2012.

LAUDERDALE COUNTY, MISSISSIPPI,
DEFENDANT

BY: /s/ Michael J. Wolf
MICHAEL J. WOLF

OF COUNSEL:
MICHAEL J. WOLF - BAR NO. 99406
PAGE, KRUGER & HOLLAND, P.A.
P.O. Box 1163
Jackson, Mississippi 39215-1163
(601) 420-0333
Fax (601) 420-0033
Email: mwolf@pagekruger.com
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I, the undersigned attorney for Defendant, hereby certify that I have this day caused to be served by ECF, a true and correct copy of the above and foregoing document to all counsel having previously formally appeared herein.

This the 17th day of January, 2012.

/s/ Michael J. Wolf
MICHAEL J. WOLF